

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF OREGON**  
**PORTLAND DIVISION**

**REBECCA MICHELLE SHERMAN,** )  
 )  
Petitioner, )  
 )  
v. )  
 )  
**NANCY HOWTON,** )  
 )  
Respondent. )  
\_\_\_\_\_ )

Case No. 3:09-CV-00228-AC

**ORDER ADOPTING  
FINDINGS & RECOMMENDATION**

**SIMON, District Judge.**

On March 22, 2012, Magistrate Judge John V. Acosta filed Findings and Recommendation (Dkt. 44) in this case. Judge Acosta recommended denying the Petition for Writ of Habeas Corpus, entering a judgment of dismissal, and denying a certificate of appealability. Petitioner timely filed objections (Dkt. 47), and Respondent timely filed a response (Dkt. 48).

Under the Federal Magistrates Act, the court may “accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate.” Federal Magistrates Act, 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate’s findings and recommendations, “the court shall make a *de novo* determination of those portions of the report or specified

proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3); *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009). *De novo* review means that the court “considers the matter anew, as if no decision had been rendered.” *Dawson*, 561 F.3d at 933.

After *de novo* review, the court ADOPTS Judge Acosta’s Findings and Recommendation (Dkt. 44) for the reasons stated therein. Accordingly, the court dismisses the Petition for Writ of Habeas Corpus with prejudice. Because Petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability is DENIED.

Dated this 7<sup>th</sup> day of May, 2012.



Michael H. Simon  
United States District Judge